

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7961 of 2005

Between:

Smt.Kosaraju Annapoorna W/o.Late Appa Rao
R/o.9-162, Kummari Veedhi Kaikalur Village and Mandal
Krishna District.

..... PETITIONER

AND

- 1 The Vice Chairman & Managing Director
A.P.State Finance Corporation Hyderabad.
- 2 The Senior Branch Manager
A.P.State Finance Corporation P.b.No.760, 2nd Floor, Pioneer
House , Labbipet Bander Raod , Vijayawada-10

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue a Writ , order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing Advertisement in Andhra Jyothi Telugu Daily News Papers dt.22-1-2005 for calling sealed tender for the petitioner property, without passing any order on the representation of the petitioner and rejecting the representation vide letter dt.28-3-2005 without conducting the negotiations for settlement of the due amounts on installments as arbitrary, illegal and further direct the respondents to recover the loan amount on from the loan borrowers apart from the Petitioner, if necessary by selling the properties offered by them for securing the loan, before taking coercive steps against the petitioners and pass such other order or orders.

Counsel for the Petitioner:MR.RAVI KUMAR TOLETY

Counsel for the Respondent Nos.1 and 2: MR.Y.N.LOHITA

The Court at the admission stage made the following O R D E R:

The petitioner seeks a Writ of Mandamus to declare the action of the respondents in calling for sealed tenders for sale of petitioner's property by issuing Advertisement in Andhra Jyothi Telugu Daily Newspaper dated 22.01.2005 without considering his representation dated 22.01.2005 and rejecting the representation dated 28.03.2005, as illegal and arbitrary.

Learned counsel for the petitioner contended that the respondents without having negotiations with the petitioner issued paper publication and, that, it amounts to violation of principles of natural justice. He further contended that the action of the respondents in proceeding against the guarantor is bad in law and, therefore, seeks for necessary directions.

Learned counsel for the respondents contended that the case of the petitioner was rejected on the ground that he committed default in payment of outstanding dues amounting to Rs.11,21,400/- and, therefore, there is no violation of principles of natural justice. He further contended that the machinery in M/s. Trans Medi Script Solutions (P) Limited was found to be missing and therefore, proceedings are initiated against all the guarantors including the petitioner.

Heard both the counsel.

Earlier, the petitioner filed W.P.No. 10543 of 2004 challenging the auction notice dated 17.05.2005, which was dismissed by order dated 28.12.2004. It is not disputed in the earlier writ petition that the petitioner was directed to pay an amount of Rs. 11,21,400/- as on 30.04.2004 as he was the guarantor. Now, the respondents issued paper publication inviting tenders for sale of petitioner's property. Learned counsel for the petitioner contended that since the petitioner is a guarantor, the respondents have to proceed against the principal borrowers. This contention

cannot be accepted inasmuch as he is the guarantor for the loan taken by the borrowers.

The contention insofar as violation of principles of natural justice is concerned, since the borrowers committed default in payment of outstanding dues, the respondents have initiated proceedings against the petitioner, who stood as guarantor. Hence, there is no need to afford any opportunity to the petitioner. In spite of that, respondents have issued notice dated 17.5.2004 granting time till 25.05.2004 to clear the outstanding dues, in default, appropriate steps would be taken for recovery of dues, if necessary.

Hence, the writ petition is devoid of merits and is dismissed at the stage of admission. No order as to costs.

(K.C.BHANU,J)

Dt:11th April, 2005

usd

To

- 1 The Vice Chairman & Managing Director
A.P.State Finance Corporation Hyderabad.
- 2 The Senior Branch Manager
A.P.State Finance Corporation P.b.No.760, 2nd Floor, Pioneer

House , Labbipet Bander Raod , Vijayawada-10

3 2 CD copies

4 1 CC to MR.RAVI KUMAR TOLETY

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